

WRRTC MARCH 2019 MEETING MINUTES – APPROVED

**Wisconsin River Rail Transit Commission
Commission Meeting - Friday, March 8, 2019 at 10:00 am
Dane County Highway Garage, Madison, WI**

1. 10:01 AM **Call to Order – Alan Sweeney, Chair**
2. Roll Call. **Establishment of Quorum – Matthew Honer**

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| Crawford | Carl Orr | X | Jefferson | Mary Roberts | X |
| | Rocky Rocksvold, 2 nd Vice Chair | X | | John Kannard | X |
| | Derek Flansburgh | Excused | | Augie Tietz, 3 rd Vice Chair | X |
| | Tom Cornford, Alternate | Excused | | Terry Thomas | X |
| Dane | Gene Gray, Treasurer | X | Rock | Wayne Gustina | X |
| | Jim Flemming | Excused | | Alan Sweeney, Chair | X |
| | Chris James, 1 st Vice Secretary | X | | Chuck Spencer | X |
| Grant | Gary Ranum | X | Sauk | Dave Riek, 2 nd Vice Treasurer | X |
| | Mike Lieurance | X | | Marty Krueger | X |
| | Robert Scallon, 1 st Vice Chair | Excused | | Tim McCumber, Alternate | X |
| | Harvey Kubly, 1 st Vice Treasurer | X | | David Bretl | Excused |
| Green | Oscar Olson | X | Walworth | Richard Kuhnke, 2 nd Vice Secretary | Excused |
| | Paul Beach | X | | Allan Polyock | Excused |
| | Charles Anderson, Secretary | X | | Dick Mace | X |
| Iowa | Kate Reimann | X | Waukesha | Richard Morris | X |
| | Mark Storti | X | | Karl Nilson, 3 rd Vice Treasurer | X |

Commission met quorum.

Others present for all or some of the meeting:

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| <ul style="list-style-type: none"> • Matt Honer - WRRTC Administrator • Ken Lucht, Roger Schaalma – WSOR • Alan Anderson - Pink Lady RTC | <ul style="list-style-type: none"> • Kim Tollers, Rich Kedzior, Steven Sams, Ed Singer, Teri Beckman - WisDOT • Eileen Brownlee - Boardman Clark |
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3. Action Item. **Certification of Meeting’s Public Notice – Noticed by Honer.**
 - o Motion to approve meeting’s public notice – Kubly/Thomas Passed Unanimously.
4. Action Item. **Approval of Agenda – Prepared by Honer.**
 - o Motion to approve the agenda – Gustina/Morris. Passed Unanimously.
5. Action Item. **Approval of draft January 2019 Meeting Minutes – Prepared by Honer.**
 - o Motion to approve January 2019 minutes with Minor Changes – Mace/Sweeney. Passed Unanimously.
6. Updates. **Public Comment – Time for public comment may be limited by the Chair.**
Mace stated that Joe Boardman, the former CEO of Amtrak passed away this week.
7. Updates. **Announcements by Commissioners**

REPORTS & COMMISSION BUSINESS

8. **WRRTC Financial Report – Gene Gray – Treasurer.**
 - Treasurer’s Report

Gene reported that there was nothing unforeseen in the March treasurer’s report. Anderson asked if all County contributions were received, not knowing the answer Gene reported that he will follow up with Matzinger regarding this. Gene reported on the checks. Sweeney asked that the commission discuss with Matzinger to report on Check #1407. Gray added a check for SWWRPC Q4 administration and Badger Sauk Trail Project Management.

- *Motion to approve the Treasurer's Report, income statement, payment of bills, and the requirement to follow up on the checks in question. Anderson/Storti. Passed Unanimously.*

9. Wisconsin & Southern Railroad's Report on Operations – Ken Lucht, Schaalma – WSOR

Schaalma reported that the snow and ice have been taking a lot of time to deal with over the winter. Schaalma reported that the Wauzeka Bridge is in. There is some follow up work but mostly done. The three Watertown bridge replacements are complete. Schaalma reported that the contract for Bridge 254 over the Yahara River has been awarded to Kraemer NA, advertisement and acceptance of projects on the Waukesha Sub. was completed, and bridge design for Merrimac is near completion.

Ranum asked if there are plans to replace the Fox Lake Sub. with continuous welded rail (CWR) following the derailment that happened. Schaalma stated that there is no near-term project for that area. The rail detector was on the sub. this last summer and did not find any defects in the rail. Nilson asked if there was a slow order on rail due to the cold. Schaalma stated there was not because there were no detected problems or defects, but there is now a slow order. Steven asked if Schaalma knew what caused the rail breakage. Schaalma stated that it was a vertical split head defect in the rail.

Lucht reported further on the Spring Grove derailment. Lucht reported the cause was defective and aged rail and that WSOR acted quickly to return the line to service within 20 hours with minimal interruptions. Sweeney asked if the derailment brings into question the rail detector and contractor. Roger stated that he has been working with the contractor to review the inspections, but that the detector and contractor appear to have reviewed the area and did not find defects this past summer. Sweeney asked what was communicated to the rail detector company. Schaalma reported that WSOR will work with them to address issues now and in the future. Riek asked if the inspection looks at internal cracks, Schaalma stated that the ultra-sonic inspection of the detector will typically pick up the defects. Reimann asked if 100% of the line is inspected. The entire system is inspected once a year. Mace asked what time of year the inspection was done. Schaalma reported that this section was done October 23rd. Roberts asked if the repair is ok for now and when the area will be replaced. Sams asked if there was a warranty, Schaalma reported there would be if the defect was on the graph but was not reported to WSOR, that was not the case. Orr asked how often the contractor calibrates their equipment, Schaalma was not sure. Sweeney asked if WSOR talked with the public officials in the area, Lucht stated that WSOR's general manager did speak with them. Reiman asked if this is covered by insurance. Lucht stated that the railroad has a high deductible so they will not be utilizing insurance. Lucht showed a video of the derailment. Lucht stated he will be presenting on the previous derailments and the future capital improvements in the coming months. Lucht stated that there is a loan program in Illinois that may be able to assist with the replacement of the rail. Mace asked if there is any responsibility or obligation to share the photos or video? Tollers stated she would like a copy of the photo to share with others regarding the danger of encroachments. Reimann is asking if there are any litigation issues, Schaalma stated that would be unlikely because the defect did not exist when the rail was detected. Roberts asked what the cost of the repair was, Lucht estimated that it would be just shy of \$500k.

Lucht presented on rail conditions and business relationships in Jefferson County, which he prepared for the month prior when the Commission was scheduled to meet in Jefferson County. Lucht reported that Jefferson County is serviced by three railroads, two Class 1 railroads, Union Pacific (UP) and Canadian Pacific (CP); and a regional railroad (WSOR). Lucht stated that WSOR is looking to expand business in Jefferson. Mace asked if interchanges currently take place with UP and CP. Lucht stated that there is not. Lucht presented the capital improvements that have taken place in Jefferson County on the WRRTC system since 2012. Lucht stated that about \$13M has been invested in the line. Schaalma stated that there is a large bridge (approx. 300 ft) that if traffic to Watertown increases, it will need a substantial repair.

Lucht reported that the track siding, the Commission approved in the fall, in Delavan has been completed to service Schoenek Containers.

10. WisDOT Report – Rich Kedzior, Lisa Stern - WisDOT.

Kedzior reported that the Governor's Budget includes \$30M in bonding for FRPP program. Kedzior stated that they received an application from WSOR for CWR installation and other improvements on the Prairie Sub. that WisDOT was very happy to receive. Stern stated that she is working with the Village of Eagle to convert the road crossing at Railroad Street to a trail crossing.

11. WRRTC Correspondence/Communications and Administrator's Report – Honer, Admin.

Honer reported that he has begun to reach out to the county clerks to update commissioner appointments. Honer stated that he copied many of the commissioners on the correspondence, if they are scheduled to be reappointed or if he was missing information about their appointment. Honer requested that the clerks provide him a written confirmation of appointment. At an upcoming meeting, Honer will ask for commissioner to sign an oath of office, as recommended by the Commission's legal counsel. Honer also stated that WisDOT advised him of a utility crossing in Oregon that is not to Trans 29 standards. He has been working with the utility companies to resolve the issue and expects an application from Charter and Frontier at the next meeting.

Honer stated that he received a certificate of Liability insurance from WSOR for 2019.

12. Discussion and Possible Action on Gritmacker Private Crossing on Fox Lake Subdivision – Honer, Admin.

Honer stated that Mr. Gritmacker purchased a property on the Fox Lake Subdivision, in Belden, Illinois. His property is adjacent to the new siding that was constructed on the Fox Lake Subdivision. Shortly after purchasing the property Mr. Gritmacker applied for a private crossing permit to

WRRTC MARCH 2019 MEETING MINUTES – APPROVED

access his property that is on the north end of the rail tracks. The Commission approved his application. A draft agreement was made between WRRTC, WSOR, and Mr. Gritmacker. At this time, Mr. Gritmacker retained the services of an attorney and who advised him not to sign the agreement. After numerous discussions between Mr. Gritmacker, WRRTC's counsel, and Mr. Gritmacker's counsel there is no resolution.

Mr. Gritmacker's attorney contends that a prescriptive easement exists for Mr. Gritmacker to cross the tracks, simply by the fact that his land is on both sides of the tracks and he has a need to cross. Honer stated that the Commission understands that Mr. Gritmacker needs to cross to access his property and that we need to allow this to happen, but the Commission has operated with private crossing agreements in the past because it is in the interest of safety and liability for the private crossing holder and WRRTC to agree to a location and agree to allow the crossing holder to place their own crossing infrastructure on rail property.

Honer stated that Brownlee advised that it comes down to how forcefully the Commission wants to enforce private crossing permits. A crossing was constructed by WSOR at this location, this crossing is to the benefit of Mr. Gritmacker as he will be the only user. Yet, Mr. Gritmacker has not agreed to have a crossing. Honer stated that the Commission can remove this crossing infrastructure if it wishes or continue to allow Mr. Gritmacker to use the crossing without an agreement, essentially as an illegal crossing.

Tollers suggested the Commission work with the Illinois Commerce Commission. Nilson suggested that the Commission not press the issue. Sweeney stated that he thinks it sets a poor precedent for the responsibility of the commission. Mace stated that ignoring one issue will not allow us to enforce the permit at other areas. Sweeney stated that he suggests the Commission ask counsel to explore the options available to the Commission and to bring it back to the Commission.

- *Motion to ask counsel to explore these issues. – Spencer/Reimann. Passed Unanimously.*

Mace asked if nothing comes back from the research, can the Commission remove the crossing. Honer stated that the landowner does not own the infrastructure, WRRTC does and that it is currently on the WRRTC right of way unpermitted. WRRTC can ask WSOR to remove the infrastructure. Sweeney stated that the landowner could then just modify the area by himself and cause damage.

- *Motion to draft letter to Mr. Gritmacker informing him of the liability, trespassing, and non-compliance – Kannard/Mace.. Passed Unanimously.*

Beach suggested that if the parcel is the correct size, the Commission could offer to purchase the land. Anderson asked if the landowner has established any right of domain. Honer stated that this is what the landowner's attorney is stating. Tollers stated that in Wisconsin, the law states that property owners have the right to cross but they require a permit.

13. Discussion and Action on City of Waukesha Utility Permit - Honer, Admin.

Honer stated that the City of Waukesha has a large infrastructure project going on to update the roadway, storm sewer, street lighting, watermain, and other existing utilities. The utility is located underneath a railroad bridge. The bridge crosses over a city road. Honer stated that he reviewed the permit in relation to Wis. Statute Trans 29 – which provides standards for utility crossings of rail. The utility permit has been approved by WSOR and WisDOT, who also reviewed it in relation to Trans 29. This utility permit exists on WRRTC owned property, so the Commission is the responsible party for reviewing

- *Motion to approve the City of Waukesha Utility Permit – Nilson/Morris. Passed Unanimously.*

Mace asked if this has anything to do with parts of the ROW that are owned by the City of Waukesha. Honer stated that it is unlikely because the city came to the commission for approval.

14. Presentation on WRRTC Track Conditions – Steven Sams, WisDOT.

Steven Sams, Railway Engineer from WisDOT - Rails and Harbors, presented the existing track conditions of the WRRTC system. Sams presented on the normalized cross tie maintenance, he stated that the life of a tie is 35 years and that determines how often ties need to be replaced. Sams explained ballast and sub-ballast. Lucht asked about treatments for ties and the green-treatment being usable. Steven explained there are many other forms of ties including plastic and concrete. Alan Anderson asked what WSOR does for tie replacement to maintain the line. Schaalma stated that there a few subs in the system (cottage grove, and prairie) that need more than 500 ties per mile for a project.

15. Adjournment

- *Motion to Adjourn at 11:23 am – Gustina/Mace. Passed Unanimously.*